

DOCKET NO.: WARF-0071

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re Application of:

Sally A. Leong, et al.

Application No.: 09/257,585

Filing Date: February 25, 1999

Confirmation No.: 2444

Group Art Unit: 1638

Examiner: Kubelik, Anne R.

For: Cultivar Specificity Gene from the Rice Pathogen *Magnaporthe grisea* and  
Methods of Use

DATE OF DEPOSIT: August 4, 2004

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REGISTRATION NO.: 47,930

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

PETITION FOR WITHDRAWAL OF ABANDONMENT

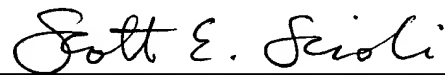
During a telephone conference between the Examiner and Applicants' Attorney Janet E. Reed, Applicants' Attorney was advised that a Notice of Allowance dated December 24, 2004 and carrying a statutory due date of March 24, 2004, had been mailed to Applicants' Attorney. The Examiner advised Applicants' Attorney that said Notice of Allowance was returned to the United States Patent Office by the United States Postal Service as being undeliverable, despite being properly addressed. The Examiner advised Applicants' Attorney that a new Notice of Allowance would be mailed forthwith. Applicants received a subsequent Notice of Allowance dated May 5, 2004 and are paying the issue fee due on August 5, 2004 separately herewith.

However, the subsequent Notice of Allowance did not reference the Examiner's telephone conference with Applicant's Attorney. Nor did it indicate in any way that the due date recited in the first Notice of Allowance had been vacated. Consequently, the record remains reciting a statutory due date of March 24, 2004 which appears to not have been met by Applicants. Consequently, the application appears to stand abandoned as a matter of law for not meeting the statutory deadline for payment of the issue fee associated with the first Notice of Allowance.

In order to clarify the record, Applicants are filing this Petition to Withdraw Abandonment and request that the Office either grant the petition or clarify the record to indicate that the due date of March 24, 2004 for payment of the issue fee as recited in the Notice of Allowance mailed is vacated and withdrawn.

As no error occurred on the part of Applicants and Applicants do not believe there is any abandonment *in fact*, no fee is believed to be due. However, should the Office require a fee to review this petition, the Commissioner is authorized to charge any fee to Deposit Account No. 23-3050.

Date: August 4, 2004



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